

EXHIBIT 38

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 08-13555-scc

4 Adv. Case No.

5 - - - - - x

6 In the Matter of:

7

8 Lehman Brothers Holdings Inc.

9 Debtor.

10 - - - - - x

11

12

13

14 U.S. Bankruptcy Court

15 One Bowling Green

16 New York, NY 10004

17

18 March 1, 2016

19 11:01 AM

20

21

22

23 B E F O R E :

24 HON SHELLEY C. CHAPMAN

25 U.S. BANKRUPTCY JUDGE

1 Hearing re: Status Conference on Doc #52113 Motion for
2 Sanctions Against William Kuntz III.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 QUINN EMANUEL URQUHART & SULLIVAN, LLP

4 Attorney for Official Creditors Committee of Lehman

5 Brothers Holdings, Inc.

6 51 Madison Avenue, 22nd Floor

7 New York, NY 10010

8

9 BY: ANDREW ROSSMAN

10

11 WACHTELL, LIPTON, ROSEN & KATZ

12 Attorney for J.P. Morgan Chase

13 51 West 52nd Street

14 New York, NY 10103

15 BY: HAROLD S. NOVIKOFF

16

17 MR. WILLIAM KUNTZ, III

18 India Street

19 P.O. Box 1801

20 Nantucket Island, MA 02554

21

22

23

24

25

1 P R O C E E D I N G S

2 THE COURT: Please proceed. All right. And Mr.
3 Rossman, Mr. Novikoff, how are you?

4 MR. ROSSMAN: Good morning.

5 MR. NOVIKOFF: Good morning, Your Honor.

6 THE COURT: Mr. Kuntz?

7 MR. KUNTZ III: Yes, Your Honor.

8 THE COURT: I think you ought to come up.

9 MR. KUNTZ III: Did you sign the order directing
10 me to appear?

11 THE COURT: Mr. Kuntz, please come up to the
12 table.

13 MR. KUNTZ III: Your Honor, I will be present or
14 not. Did you sign the order? I'll come up. Otherwise I'll
15 --

16 THE COURT: Mr. Kuntz, do you see this gentleman
17 standing over here?

18 MR. KUNTZ III: I understand that, Your Honor. If
19 Your Honor wishes to hold me in contempt, go ahead. I asked
20 you to sign an order directing me to appear. I have no
21 papers from any of the parties except this letter dated the
22 16th of the month. Now, I stand on my rights under the
23 federal rules. If Your Honor simply initials the order,
24 I'll be happy to proceed. It's very simple, Your Honor.

25 I'm not here to annoy the court. I've been here.

1 I'm prepared to proceed. I simply need Your Honor to direct
2 me to proceed, otherwise I have nothing except
3 (indiscernible) somewhere by various parties and
4 {indiscernible}. Thank you, Your Honor.

5 THE COURT: Mr. Rossman?

6 MR. ROSSMAN: Your Honor, we've attempted every
7 means of service I think known to mankind with Mr. Kuntz.
8 We've been frustrated throughout. He maintains a PO Box.
9 He does communicate by fax. He does communicate by email.
10 We've been in contact with him from the beginning.

11 THE COURT: Have you received copies of these
12 handwritten documents? I think they were just filed on the
13 docket today, Mr. Rossman.

14 MR. ROSSMAN: We have them electronically, yeah,
15 but we haven't seen them.

16 THE COURT: At Docket 52230 and 52229. All right.
17 Well, I'll take appearances for the record. I have invited
18 Mr. Kuntz to come up and he has apparently declined, so
19 we're just going to proceed, all right? Mr. Rossman, you
20 filed a motion for sanctions against Mr. Kuntz that was
21 docketed and today was put on the court's calendar as a
22 status conference with respect to that matter. So if you'd
23 like to be heard, I'm ready to listen.

24 MR. ROSSMAN: Thank you, Your Honor. I appreciate
25 the court's time this morning. Andrew Rossman with Quinn

1 Emanuel on behalf of the official creditors committee of
2 Lehman Brothers Holdings, Inc.

3 It's unfortunate that we have to proceed in this
4 way, Your Honor. We have tried every way that we can
5 conceive of to contact and engage Mr. Kuntz to understand
6 what, if any, his issues are with respect to the settlement.
7 This is a matter of great seriousness for the creditors of
8 Lehman and for the Lehman estate.

9 We stand upon finality of this settlement to
10 obtain from JP Morgan \$1.42 billion in cash and another \$76
11 billion in funds that will be released and we will
12 distribute them for the next distribution, which is
13 scheduled for March 31st to all the creditors of Lehman, so
14 it's of great practical significance to people who will get
15 real money back from the estate.

16 In order to accomplish that goal, we need to get
17 funds in hand by March 11th and that's why we've been moving
18 both in this court and in the district court with all the
19 speed that we can muster to try to get resolution of Mr.
20 Kuntz's issues.

21 Just to updated Your Honor, the district court,
22 Judge Sullivan, has now taken the matter as a related
23 matter. Judge Sullivan has issued an expedited briefing
24 schedule in request for our -- in response to our request
25 for emergency briefing. So Mr. Kuntz has until March 2nd to

1 respond to our motion for sanctions in the district court
2 and our motion to dismiss his appeal.

3 THE COURT: So--

4 MR. ROSSMAN: So we're here, Your Honor, because
5 frankly we want to impress upon Mr. Kuntz the seriousness of
6 his behavior and we need relief.

7 THE COURT: So you filed the parallel motion in
8 the district court seeking sanctions?

9 MR. ROSSMAN: We did, Your Honor, because they are
10 filings both here in the bankruptcy court and there are
11 filings in the district court, both of which are, we think,
12 frankly, worth of sanction. There's no colorable basis at
13 all to his objection. There seems to be no tie between what
14 he's complaining of in the Lehman Brothers' bankruptcy.

15 It's been explored exhaustively by Judge Peck. He
16 continues to make filings that stand in the way of our
17 resolving the settlement.

18 THE COURT: Right. Mr. Novikoff, did you wish to
19 add anything? Can you -- you can confirm that, in fact, JP
20 Morgan will not remit the settlement funds to the Lehman
21 estate until there is a final order meaning in this
22 instance, disposition of the appeal in the manner favorable
23 to the estate.

24 MR. NOVIKOFF: That's correct, Your Honor. We
25 would need an order which has become final and no longer

1 subject to appeal approving the settlement and then JP
2 Morgan is prepared to fund within five business days at that
3 time.

4 THE COURT: Okay. All right. Well, I think the
5 only thing that -- in the absence of Mr. Kuntz determining
6 to participate in this hearing of which he obviously had
7 notice because he's sitting in the last row of the
8 courtroom, and the only thing that remains, Mr. Rossman, is
9 to set a briefing schedule and a hearing date for your
10 motion for sanctions in this court. So we will proceed
11 along and the district court will proceed along on its
12 motion.

13 MR. ROSSMAN: Yes, Your Honor. We appreciate
14 that. We're prepared to move on the fastest briefing
15 schedule the court can set.

16 THE COURT: All right.

17 MR. ROSSMAN: So the only limiter would be the
18 time for Mr. Kuntz to respond. We can respond within 24
19 hours.

20 THE COURT: Do you wish to make a motion to
21 shorten notice?

22 MR. ROSSMAN: We do, Your Honor.

23 THE COURT: All right. When would you like to
24 have the motion for sanctions heard?

25 MR. ROSSMAN: We can -- if we can, Your Honor,

1 we're available at the court's pleasure, so perhaps Friday
2 this week. I'm taking a guess at the court's calendar.

3 THE COURT: Yes, my calendar is full tomorrow and
4 Thursday. I could hear you Friday afternoon.

5 MR. ROSSMAN: Very good, Your Honor.

6 THE COURT: Say at 3:00. And I will -- well, let
7 me first ask Mr. Kuntz. Do you wish to state anything in
8 opposition to the oral motion made by counsel to shorten the
9 time for hearing on the motion for sanctions?

10 MR. KUNTZ III: Your Honor, I've already sent in
11 two documents expressing --

12 THE COURT: Mr. Kuntz, I am not going to speak to
13 you while you stand in the back of the room.

14 MR. KUNTZ III: Thank you, Your Honor.

15 THE COURT: All right. We're going to have a
16 hearing on the motion for sanctions at 3:00 on Friday
17 afternoon. Any opposition papers that need to be filed,
18 should be filed no later than 4:00 PM on Thursday, March
19 3rd.

20 Mr. Kuntz, your appearance on Friday will be
21 required.

22 MR. KUNTZ III: I understand, Your Honor. I
23 understand, Your Honor.

24 THE COURT: You are disrespectful to the court in
25 a way that frankly I have never encountered. No one --

1 don't speak. You are a stranger to the Lehman Brothers
2 proceeding. You have no standing. You have no greater
3 right to be holding up a \$1.4 billion settlement to the
4 legitimate creditors of the Lehman estate who have been
5 waiting for over seven years for these monies to be
6 distributed to them.

7 This is going to come to an end. You may not know
8 anything about me, so I will share with you two facts. One,
9 I have great respect for due process and I am attempting to
10 afford you due process. You are declining to participate.

11 Two, many, many people were hurt by the demise of
12 Lehman Brothers. People sitting in this room have been
13 working diligently over the past number of years in order
14 to, to the best of their ability, remedy the harm that was
15 occasioned upon the creditors of Lehman Brothers.

16 I have the privilege of presiding over this case
17 after Judge Peck retired. I have overseen many, many
18 settlements that have led to recoveries to creditors that
19 have far exceeded anyone's estimates that were made back in
20 the dark days of 2008.

21 I will not allow this process to continue to be
22 disrupted. You can sit in the back of the room. I will not
23 talk to you from the back of the room. If you intend to
24 appear on Friday when I will consider the very serious
25 request that's being made by the Lehman estate, you will

1 come to the front of the room, otherwise don't bother
2 appearing. Do you understand?

3 MR. KUNTZ III: Your Honor told me not to speak.

4 THE COURT: Officer, would you please escort Mr.
5 Kuntz from the hearing? Thank you.

6 MR. KUNTZ III: Thank you, Your Honor.

7 THE COURT: Anything else, Mr. Rossman?

8 MR. ROSSMAN: No. Thank you, Your Honor.

9 THE COURT: Okay. Thank you. I'll be back at
10 2:00.

11 (Whereupon these proceedings were concluded at
12 11:12 AM)

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.

Sonya
Ledanski Hyde

Digitally signed by Sonya Ledanski
Hyde
DN: cn=Sonya Ledanski Hyde, o, ou,
email=digital1@veritext.com, c=US
Date: 2016.03.02 15:19:36 -05'00'

Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: March 2, 2016